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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gardner et al.  
Serial No: 09/483,653  
Confirmation. No.: 8646  
Filed: January 14, 2000  
For: METHODS AND APPARATUS FOR PRODUCING ANIMAL  
SOUNDS TO LURE ANIMALS

Examiner: Not yet assigned  
Art Unit: 3712

COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

RECEIVED

JAN 31 2003

Dear Sir:

TECHNOLOGY CENTER R3700

DECLARATION OF DANIEL P. MCLOUGHLIN

I, Daniel P. McLoughlin, declare that:

1. I am an attorney licensed to practice before the Patent and Trademark Office (Registration No. 46,066) and am counsel for the Applicant of the above-referenced application.
2. Upon information and belief, there is an apparatus for luring an animal actually on the market in the United States that embodies the invention recited in claims of the above-referenced application, following the filing of a preliminary amendment on January 28, 2003, a copy of which is enclosed herewith. The apparatus is marketed under the name Johnny Stewart Preymaster<sup>TM</sup> Digital Caller and is operable to store a plurality of animal sounds and to contemporaneously playback such sounds. This apparatus is advertised on the Internet, and I have analyzed a physical sample.
3. I have caused a careful and thorough search to be made for prior art relevant to the above-referenced application. This search has two components. First, by filing counterpart PCT Application No. US01/00691 with claims substantially identical to those filed in this application, the ISA has searched those claims. This search resulted in an

International Search Report for the PCT Application. Second, electronic database searches of issued United States patents and published applications were performed on the Patent and Trademark Office websites: <http://patft.uspto.gov/netahtml/search-adv.htm> and <http://appft1.uspto.gov/netahtml/PTO/search-adv.html>, respectively, for all years searchable on the databases, using the string: "abst/((lure\$ or luring or hunt\$ or attract\$) AND (animal\$ or deer\$ or predator\$ or prey or beast\$) AND (sounds\$ or audio or call\$ or vocal\$ or cry or cries))". The term "abst" refers to the fact that the search was performed on abstracts of issued patents and published applications, and the symbol "\$" is a suffix wildcard meaning that the end of the word to which it attaches may include any additional characters.


4. Copies of the references deemed most closely related to the subject matter encompassed by the claims of the present application are enclosed, some of which resulted from the two search components described above. All of these references have been submitted in the above-identified application in an Information Disclosure Statement.

5. A rigid comparison of the Johnny Stewart Preymaster<sup>TM</sup> Digital Caller has been made with the claims of the present application, and in my opinion, there is unquestionably an infringement of at least some of the claims by the Johnny Stewart Preymaster<sup>TM</sup> Digital Caller.

I hereby declare that all statements made of by own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: \_\_\_\_\_

1/28/03

  
\_\_\_\_\_  
Daniel P. McLoughlin  
Reg. No. 46,066